

APPENDIX F.I – PROVIDER ENROLLMENT SERVICES REQUIREMENTS

	Requirements	Supplier Response	Comments
	5.1.1.1 Enroll Providers	Yes/No/Future	
1.	<p>Does the Offeror agree to establish a Provider Enrollment Services function to receive requests by prospective and current providers for DMAS enrollment to include the following responsibilities:</p> <ul style="list-style-type: none"> • Maintain on-line provider enrollment packages and related forms for downloading and printing; • Print and mail provider enrollment packages, as requested; • Validation of and data entry of information contained within the provider applications; • Enroll applicants in the Medicaid Management Information System (MMIS), in accordance with DMAS-approved operational procedures; • Verify applicable licensure or certification through the appropriate sources (at a minimum, the Virginia Department of Health Professions (DHP) and the Virginia Department of Health (VDH)); • Apply credential verifications and application-screening techniques using the National Practitioner Data Bank (NPDB), and the Healthcare and Integrity Protection Data Bank (HIPDB); and • Determine the provider type and specialty based on the enrollment application? <p>Describe the approach.</p>		
2.	<p>Does the Offeror agree to accurately image and profile all provider documentation received from providers, DMAS or the Fiscal Agent to include the following responsibilities:</p> <ul style="list-style-type: none"> • Accept and maintain care, custody, and control of an estimated 4.5 million electronically imaged provider enrollment documents, profiled by provider number, date, name, and document type; • Using software the Offeror provides, scan all incoming and outgoing provider documentation. Profile and maintain resulting images in an electronic format to ensure easy retrieval of all images by provider name, provider number, and date received and/or document type; • Interface with the FAS-provided Enterprise Content Management (ECM) 		

	<p>software to transfer scanned images;</p> <ul style="list-style-type: none"> • Provide contractor employees and DMAS contract monitoring staff direct access to these imaged provider documentation files; and • Verify accuracy of all keying of all provider data entered in the MMIS and in the ECM database? <p>Describe the approach.</p>		
3.	Does the Offeror agree to notify providers of their enrollment status in writing, and respond to written and telephonic provider inquiries? Describe the approach.		
	5.1.1.2 Renew and Terminate Providers	Yes/No/ Future	
4.	Does the Offeror agree to comply with Federal law requiring State Medicaid agencies to curtail improper payments made to any provider that has been sanctioned, or excluded from participating in federally funded programs? Describe the approach.		
5.	Does the Offeror agree to renew and terminate provider participation? Describe the approach.		
6.	Does the Offeror agree to produce and mail notification letters to providers due to expire at least 90 days before the provider expiration date? Describe the approach.		
7.	<p>Does the Offeror agree to perform the following:</p> <ul style="list-style-type: none"> • Verify that all necessary documentation has been submitted by the provider for renewal; • Ensure that sanctioned providers are terminated and excluded from participating; • Accurately make the necessary changes to the provider file based on updated data submitted by the provider; • Terminate provider participation at the provider's request or in response to notification from the appropriate sanctioning, licensing authority; or upon DMAS request; • Research the provider database to identify provider and accurately key termination date and reason code in response to notification from the provider, DMAS, the Office of the Attorney General, DHP, Centers for Medicare and Medicaid Services (CMS) Office of the Inspector General, other appropriate authority as deemed by DMAS; • Mail termination notice to the provider and image a copy in the provider's 		

	<p>electronic file within one (1) business day of the termination processing; and</p> <ul style="list-style-type: none"> • Provide documentation as needed to the providers, DMAS or other appropriate authority as deemed by DMAS? <p>Describe the approach.</p>		
	5.1.1.3 Medicaid Provider Database and Application Tracking Files	Yes/No/Future	
8.	Does the Offeror agree to maintain the provider database and application tracking files? Describe the approach.		
9.	Does the Offeror agree to process all provider database/file change requests to ensure dissemination of correspondence, payments, and other program information to the DMAS provider community? Describe the approach.		
10.	Does the Offeror agree to produce and mail a written notice to each affected provider for any change of enrollment status or a demographic update in the MMIS? Describe the approach.		
11.	Does the Offeror agree to maintain all non-administrative provider data in the provider subsystem, and update all files and databases supporting this function including enrollment, assignments, specialty, demographic, EFT participation, and other data as needed? Describe the approach.		
	5.1.1.4 Provider Reimbursement Rates	Yes/No/Future	
12.	<p>Does the Offeror agree to perform the following reimbursement rate functions:</p> <ul style="list-style-type: none"> • Receive the rates from DMAS, or designated contractor; • Enter rate data from the DMAS or its designated Contractor for each provider rate and fiscal year-end change request; and • Conduct review of the rate data to ensure that there is sufficient information to continue the initial rate data-entry process and, should the rate data be insufficient to continue enrollment, contact DMAS to explain why the rate data are deficient and follow through to achieve resolution? <p>Describe the approach.</p>		
	5.1.1.5 MEDALLION Provider Enrollment	Yes/No/Future	
13.	<p>Does the Offeror agree to process MEDALLION provider enrollment requests:</p> <ul style="list-style-type: none"> • Screen all MEDALLION enrollment requests to determine if they meet 		

	<ul style="list-style-type: none"> provider MEDALLION guidelines; Process MEDALLION Primary Care Provider (PCP) enrollment and maintenance requests; Mail all DMAS approved letters associated with MEDALLION Provider Enrollment and maintenance; and Maintain and provide a list of MEDALLION enrollment activities to DMAS? <p>Describe the approach.</p>		
	5.1.1.6 Annual Form 1099	Yes/No/ Future	
14.	<p>Does the Offeror agree to resolve all Form 1099 discrepancies resulting from annual Form 1099 mailings:</p> <ul style="list-style-type: none"> Contact the Medicaid provider population in writing to confirm tax identification numbers and IRS names; Update provider database, as needed; Process provider inquiries regarding annual Form 1099s and requests for duplicate copies; and Ensure data integrity with ongoing file maintenance efforts? <p>Describe the approach.</p>		
	5.1.1.7 Mailroom and Courier Services	Yes/No/ Future	
15.	<p>Does the Offeror agree to process all returned provider mail:</p> <ul style="list-style-type: none"> Develop process and procedures for all returned provider mail; Receive and process returned provider mail; Use DMAS approved electronic or imaging databases for address validations and comparisons; Establish quality controls to promote operational efficiency; Return to the Fiscal Agent any MMIS-generated and personal provider checks inadvertently sent to the PES with a log of associated checks; Update address and provider databases to prevent returned provider mail, including returned checks; Communicate information regarding check resolutions for provider address issues to the Fiscal Agent via check log; and Maintain log of all returned mail received and processed; criteria determined by DMAS? 		

	Describe the approach.		
16.	Does the Offeror agree to provide a courier service that picks up and delivers correspondence between DMAS and the Offeror's site location and between the FAS site location and the Offeror's site location once each business day? Note: this could be as much as a 60-mile round trip.		
17.	Does the Offeror agree to use a courier who is able to carry heavy boxes of documents and/or supplies from one location to another?		
	5.1.1.8 Telephone Call Center	Yes/No/ Future	
18.	Does the Offeror agree to establish and maintain a Provider Enrollment Services Telephone Call Center in support of Provider Enrollment Services functions? Provide a detailed description of the approach to this functionality.		
19.	<p>As part of the call center establishment and maintenance, does the Offeror agree to the following:</p> <ul style="list-style-type: none"> • Maintain a dedicated Automated Call Distributor system with toll-free telephone and facsimile numbers for providers to conduct business; • Digitally record the audio of all incoming and outgoing calls; • Provide the capability to review and furnish to DMAS historic call recordings; • Provide greeting and educational messages while callers are on hold; • Provide access for the Contract Monitor or other authorized DMAS staff to have access to privately listen to incoming and outgoing calls from the Provider Enrollment Services Call Center for quality-assurance purposes; • Provide a voice-messaging system to be available only after normal business hours and calls must be returned by 5:00 PM the next business day; • Implement and maintain a dedicated facsimile server solution to accommodate incoming and outgoing facsimiles from staff computers; and • Ensure customer service quality is maintained through a comprehensive Quality Assurance Plan? <p>Describe the approach.</p>		
	5.1.1.9 Management Reports	Yes/No/ Future	
20.	Does the Offeror agree to provide DMAS with weekly management reports in a format approved by DMAS? Describe the approach.		

21.	Does the Offeror agree that key staff shall be available for weekly face-to-face status meetings with DMAS?		
	5.1.1.10 Complaint Tracking System	Yes/No/ Future	
22.	<p>A complaint for the purpose of this RFP is defined as any verbal or written expression of dissatisfaction with the contractor's performance, customer service, or the Medicaid Program. Does the Offeror agree to resolve complaints and maintain a complaint tracking system:</p> <ul style="list-style-type: none"> • Ability to receive, track, and respond to all oral and written complaints submitted; • Develop and implement a detailed approach to complaint tracking, handling, reporting, and resolution; • Respond to and resolve all complaints within 5 business days of receipt; and • Maintain electronic images of all provider complaints? <p>Describe the approach.</p>		
	5.1.1.11 Provider Enrollment Services Procedures Manual(s)	Yes/No/ Future	
23.	<p>Does the Offeror agree to maintain comprehensive Provider Enrollment Services procedure manual(s) as follows:</p> <ul style="list-style-type: none"> • Assume responsibility of the Provider Enrollment technical procedure manual(s); • Develop and maintain PES operations procedure manual(s) for such functions as operational workflows; • Maintain procedure manual(s) in accordance with DMAS guidelines; • Develop, change, edit and implement procedures in response to legislative policy, and programmatic changes; • Incorporate operational modifications specific to methodologies workflow and process; • Modify manual(s) within ten (10) business days of a change; and • Consult DMAS for guidance and authorization when situations occur that affect the successful delivery of contract deliverables? <p>Describe the approach.</p>		

	5.1.1.12 Quality Assurance	Yes/No/ Future	
24.	<p>Does the Offeror agree to develop and submit a Quality Assurance (QA) Plan that supports all core responsibilities and performance measures for this RFP, to include, but not limited to addressing data integrity, call monitoring, image accuracy and customer service delivery as follows:</p> <ul style="list-style-type: none"> • Ensure business, operational, technical processes, procedures, products and services conform to DMAS standards; • Plan for monitoring and periodically auditing all business, operational, technical processes, procedures, products and services; • Develop and implement methods to measure customer satisfaction, and plans for surveying specific healthcare-provider populations; • Conduct provider satisfaction surveys twice annually; • Develop and implement quality controls that will include ongoing monitoring mechanisms to detect issues, errors or deviations to process, work flow or deliverables; • Weekly Reporting of any event impacting deliverables or performance measures. Reporting will also include corrective action taken to prevent future events from occurring and limit their impact to operations; and • Quarterly reporting of QA activities to the DMAS Contract Monitor that will include, but not be limited to, issues resulting from audits, improvement efforts, changes to procedures, and recommendations that will improve, cost, schedule, delivery of work performed? <p>Describe the approach.</p>		
	5.1.2 Applications Support	Yes/No/ Future	
25.	<p>Does the Offeror agree to provide a seamless interface between its solution and the MMIS Provider database?</p> <ul style="list-style-type: none"> • Exchange data between all applications; • Validate the exchange of that data; and • Auto populate without requiring duplicative data processing or data entry. <p>Describe the approach.</p>		
	5.2.1.1 Web-based Enrollment	Yes/No/ Future	

26.	<p>Does the Offeror agree to design and integrate into the web-based Provider Enrollment and Maintenance application a web-based workflow design that will enable and support the enrollment, renewal, termination and maintenance process of actively enrolled providers as follows:</p> <ul style="list-style-type: none"> • Develop online provider applications that will meet DMAS specifications; • Interface with MMIS system platforms, or other related components for the purposes of meeting the scope of work for this RFP; • Provide a queue management tool that can be customized per DMAS specifications; • Develop and maintain an interactive message center that is tightly integrated into the web-based workflow design per DMAS specifications DMAS; and • Electronically or digitally approve or deny applications, or other requests? <p>Describe the approach.</p>		
27.	<p>Will the Offeror's web-based Provider Enrollment and Maintenance application accommodate the importing of data from existing DMAS databases? Describe the approach.</p>		
28.	<p>Will the Offeror's web-based Provider Enrollment and Maintenance application have the ability for a real-time interface with the MMIS? Describe the approach.</p>		
29.	<p>What are the Offeror's current plans for use of CMS' Provider Enrollment, Chain, and Ownership System (PECOS)? Describe the approach.</p>		
30.	<p>What abilities does the Offeror's web-based Provider Enrollment and Maintenance application have for provider communication functions? Describe the approach.</p>		
31.	<p>Will the Offeror's web-based Provider Enrollment and Maintenance application meet the following requirements:</p> <ul style="list-style-type: none"> • Accommodate the full range of provider types and applications, (e.g., practitioners, group practices, home health agencies and waiver service providers); • Accommodate different types of transactions, (e.g., new, modification, cancellation, update); and • Perform different business logic based on provider type and application type? <p>Describe the approach.</p>		
32.	<p>Will the Offeror's web-based Provider Enrollment and Maintenance application incorporate and use NPI and provider demographics exchanges with the following:</p>		

	<ul style="list-style-type: none"> National Plan and Provider Enumeration System (NPPES); Provider sanction data from the Office of the Inspector General List of Excluded Individual and Entities (LEIE); and State licensing data from the Virginia Department of Health Professions (DHP)? <p>Provide a detailed explanation of the approach to this functionality.</p>		
33.	<p>Will the Offeror's web-based Provider Enrollment and Maintenance application verify provider enrollment data using electronic exchanges with the following:</p> <ul style="list-style-type: none"> National Practitioner Data Bank (NPDB); and Healthcare Integrity and Protection Data Bank (HIPDB)? <p>Describe the approach.</p>		
34.	Does the Offeror agree to collaborate with the Fiscal Agent on project and implementation plans for modifications affecting both the MMIS and the web-based Provider Enrollment and Maintenance application? Describe the approach.		
35.	Does the Offeror agree to make DMAS requested modifications to the web-based Provider Enrollment and Maintenance application in a timely manner, based on industry standards? Describe the approach.		
36.	Does the Offeror agree the web-based Provider Enrollment and Maintenance application will keep historic logs of data for research and reporting capabilities? Describe the approach.		
37.	Explain in detail the functionality provided by the Offeror's web-based Provider Enrollment and Maintenance application not covered elsewhere in the response.		
	5.1.2.2 DMAS Medicaid Web Portal	Yes/No/ Future	
38.	Does the Offeror agree to integrate into the DMAS Medicaid web portal a web-based Provider Enrollment and Maintenance application? Describe the approach.		
39.	<p>Does the Offeror agree to design and deploy a web services solution that will support the DMAS provider database as follows:</p> <ul style="list-style-type: none"> Provide access from a single user sign-on from the DMAS Medicaid Web Portal; Develop and administer protocols that will allow end user changes and edits for applications, access, personal information, or as directed by DMAS; and 		

	<ul style="list-style-type: none"> Provide accessibility to providers and DMAS staff 24 hours a day, 7 days a week? <p>Describe the approach.</p>		
	5.1.3 Platform Management	Yes/No/ Future	
40.	Connectivity details for the FA and MMIS Core Technologies will not be available until contract award. Describe approach, connectivity capabilities, and preferences of the Offeror's company.		
41.	A secure non-email method of transferring files greater than 8MB between DMAS, FA, MMIS Core Technologies, and PES contractor technologies is required. Does the Offeror have a solution equal to or greater than 80K bytes/second based on the secured FTP protocol (for example, FTP VSHELL server from VanDyke) using strong encryption keys (greater than 128 bit)? Additionally, if the solution requires client licenses for access, include in response the maximum number of users the solution can support. Describe the solution.		
42.	Multiple data centers are involved in housing technology components for the technical enterprise solution. If the Offeror's solution includes data center(s) for housing PES technology, are they rated as Tier III or higher as per industry definitions? Provide a summary and describe all points of non-compliance.		
43.	Do the Offeror's technology standards and processes adhere to the Commonwealth of Virginia (COV) Information Technology Resource Management (ITRM) standards and guidelines as defined at http://www.vita.virginia.gov ? Describe the approach and all points of non-compliance.		
44.	Does the Offeror agree that the PES contractor must size and maintain telecommunications of sufficient capacity to meet business SLAs throughout the contract term? Describe the approach.		
45.	Should the proposed solution include housing Virginia information on the Offeror's PES technology platforms, does the Offeror agree that DMAS staff will need to be provided remote access capabilities throughout the contract term? Describe the approach.		
46.	Routing of emails over point-to-point telecommunications circuits between DMAS and the current FA, which is also the PES contractor, is currently used to meet HIPAA security requirements. DMAS also supports Secure SMTP over Transport Layer Security (TLS) RFC 3207 over the internet. Does the Offeror agree that its proposed solution will include a method for secured industry standard email using strong encryption keys (greater than 128 bit) between DMAS and the PES contractor throughout the contract term? Describe the preferred method and approach.		

47.	Does the Offeror agree that the telecommunication, software, and hardware expenses associated with PES technology and MMIS Core Technology connectivity used to support the proposed PES staff are the responsibility of the PES contractor throughout the contract term? Describe the approach.		
48.	Does the Offeror agree that its staff will obtain MMIS user accounts through the DMAS contract monitor? Describe the approach.		
49.	SLAs are required to be effective on 7/1/2010 and DMAS will consider SLAs that are not measurable as failed. Describe the approach for ensuring measurement capabilities are ready as of the effective date for the SLA measurement process to commence.		
	5.1.4 Documentation Management	Yes/No/ Future	
50.	Does the Offeror agree to interface with the ECM solution provided by the FA Contractor, loading all imaged provider documentation to the ECM and retrieving content stored on the ECM? Describe the approach.		
	5.1.5 Security and Risk Management	Yes/No/ Future	
51.	<p>The Takeover/Turnover section requires the successful Offeror to prepare and maintain a security plan that covers its technology. Does the Offeror agree to prepare, implement, and maintain a DMAS-approved Security Plan that is compliant with the most stringent requirements from the following sources:</p> <ul style="list-style-type: none"> • Section 1902 (a) (7) of the Social Security Act (SSA); • HIPAA Security Rule, 45 CFR Parts 160, 162, and 164 Health and Insurance Reform: Security Standards: Final Rule, February 20, 2003 (or later); • HIPAA Privacy Rule, 45 CFR Parts 160 and 164 Standards for Privacy of Individually Identifiable Health Information; Final Rule, August 14, 2002 (or later); • COV ITRM Policy SEC500-02 dated: July 19, 2007 (revised) (or later); • COV ITRM Standard SEC501-01 dated July 1, 2007 (revised) (or later); • COV ITRM Guideline SEC508-00 dated April 18, 2007 (or later); and • DMAS policies? <p>Describe the approach and all points of non-compliance.</p>		
52.	Does the Offeror agree to provide annual Disaster Recovery (DR) testing (timing and DR tests to be coordinated with DMAS staff) for PES Technology, including any FA and/or MMIS Core Technology coordination? Describe the approach		

53.	Throughout the term of the Contract, does the Offeror agree to provide internal contractor staff training (both initial and refresher courses) for security awareness (and other training) as required by federal, Commonwealth and DMAS requirements (listed above) as part of the appropriate safeguards that must be in place to ensure that protected health information (PHI) is properly accessed, used and disclosed for PES? Describe the approach.		
54.	Throughout the term of the Contract, does the Offeror agree to provide a list of its members of an onsite Intrusion Response Team as required by federal, Commonwealth, and DMAS security requirements, and each member's qualifications and certifications for both threat analysis and forensics, and in the event of a breach, provide immediate access to outside experts as required for PES? Describe the approach.		
55.	Does the Offeror agree that its proposed solution will include a method for secured industry standard email between DMAS and the PES contractor throughout the contact term? Describe the preferred method and approach.		
	5.1.6 Change Management	Yes/No/ Future	
56.	Does the Offeror agree that DMAS needs a method to request changes to custom and/or proprietary products in its solution? Describe the Offeror's change management process for users to request changes as well as the change approval processes for authorizing, prioritizing, and scheduling change requests.		
57.	Does the Offeror agree that if changes are needed to MMIS Core Technology (that includes the ECM application), the proposed staff will contact the DMAS contract monitor?		
	5.1.7.1 Takeover	Yes/No/ Future	
58.	Does the Offeror agree to submit a Takeover approach plan with the proposal to include an MS-Project work plan addressing the project phases and major activities, an approach toward resource staffing the project, an approach to establishing a Contractor work location, an approach to converting Security profiles, an approach to converting documentation, an approach to migrating programs and data, and an approach to testing?		
59.	Does the Offeror agree to provide an SLA Reporting application that can be used to monitor Offeror performance according to SLAs? Describe the approach.		
60.	Does the Offeror agree to follow the Commonwealth's project-management methodology ITRM-CPM-112-02 as determined and communicated by DMAS and provide a project manager?		
61.	Does the Offeror agree to support the requirements listed in the COV ITRM Guideline SEC508-00 dated April 18, 2007 (or later), especially Section 2 COOP,		

	Section 3 IT Disaster Recovery Planning and Section 4 IT System and Data Backup and Restoration Planning?		
62.	<p>Does the Offeror agree to prepare, implement, and maintain its DMAS approved Risk Management Plan that is compliant with the most stringent requirements from the standards listed below:</p> <ul style="list-style-type: none"> • HIPAA Security Rule, 45 CFR Parts 160, 162, and 164 Health and Insurance Reform: Security Standards: Final Rule, February 20, 2003 (or later); • COV ITRM Standard SEC501-01 dated July 1, 2007 (revised) (or later); • COV ITRM Guideline SEC508-00 dated April 18, 2007 (or later); and • DMAS policies? <p>Describe approach and all points of non-compliance.</p>		
63.	<p>Does the Offeror agree to conduct annual DR testing with DMAS with the scope of the DR test to include:</p> <ul style="list-style-type: none"> • Coordination of a DR test plan and schedule with DMAS staff; • Use of the PES facility office space previously designated for DMAS to accommodate a limited DMAS staff (see staffing and section) involved in the DR tests; and • Support of DR tests to include a PES Applications test? <p>Describe the approach.</p>		
64.	Does the Offeror agree to provide all takeover-phase deliverables including those defined in the Key Deliverables Tables and according to Schedule A- Project Major Milestones Schedule?		
65.	Does the Offeror agree to provide DMAS with a Takeover Organization chart including a named project manager for the Takeover Phase?		
66.	Does the Offeror agree to work with any other contractors awarded a component of the MMIS re-procurement to ensure a successful installation? Describe the approach.		
67.	Does the Offeror agree to provide all Operations phase deliverables including those defined in the Key Deliverables Tables and according to Schedule A - Project Major Milestones Schedule? Describe the approach.		
68.	Does the Offeror agree to follow industry best practices regarding project management and work cooperatively with DMAS and other contractors to provide input to a DMAS master project plan? Describe the approach.		

69.	Does the Offeror agree to develop and manage to a Takeover work plan that is aligned with DMAS master MS-Project work plan milestones and to provide the necessary weekly status to DMAS according to the Performance Reporting Summary section in Schedule B? Describe the approach.		
70.	<p>Does the Offeror agree to notify all current providers and stakeholders of changes affecting their ability to contact Provider Enrollment Services? This information must include:</p> <ul style="list-style-type: none"> • Contractor's toll-free phone and fax number; and • Web, Email and Mailing Address. <p>Describe the approach.</p>		
71.	Does the Offeror agree to accept and house existing hardcopy files associated with the Provider Enrollment and Maintenance functions? Describe the approach.		
72.	Does the Offeror agree, as part of the Takeover Test Plan, to support a DMAS assigned independent testing audit effort with contractor resources? Describe the approach.		
73.	Does the Offeror agree, as part of an Operations Phase Quality Plan deliverable, to provide tracking and monitoring reporting that can be audited, and measures performance against service level agreement metrics? Describe the approach.		
	5.1.7.2 Turnover at Contract conclusion	Yes/No/ Future	
74.	<p>Does the Offeror agree to assign a Turnover manager at the end of the contract to participate in weekly Turnover meetings and to do the following:</p> <ul style="list-style-type: none"> • Provide responses to questions from DMAS or its successive contractor in writing within two business days (Business Owner determined) of Turnover notification; and • Present written status reports detailing progress toward achieving milestones in the Turnover plan, identify Turnover risks and any corrective actions needed to keep tasks on schedule, and report on the updated work plan? <p>Describe the approach.</p>		
75.	Does the Offeror agree that the Turnover manager assigned will be accountable for coordinating input from the Contractor's operational experts in order to meet DMAS' and its successor entity's training needs? Describe the approach.		

76.	<p>Does the Offeror agree to develop and provide to DMAS the Turnover plan within thirty (30) days (Business Owner determined) after receipt of Turnover notification from DMAS of its intent to terminate the contract? The turnover plan must include the following components:</p> <ul style="list-style-type: none"> • Proposed approach to Turnover; • Tasks and subtasks for Turnover; • Milestones schedule for Turnover aligned with DMAS' milestones and plan; • Production program and documentation update procedures for the turnover phase; • A Turnover checklist to be submitted, following the Turnover of operations, that documents the completion and results of each step of the Turnover plan; and • A list of known risks and alert DMAS to subsequent risks as they are known? <p>Describe the approach.</p>		
77.	<p>Does the Offeror agree, when requested by DMAS, to transfer on DMAS-approved electronic media all Turnover components required to operate the system—including but not limited to source code; JCL; data; updated computer programs; all system, user, and operations documentation; and records—to DMAS or its successor contractor or entity; to provide all electronic media used to transfer data and for all shipping charges; and to provide the electronic media using industry-standard DMAS designated utilities to copy?</p> <p>Please describe the approach and explain any negative response.</p>		
	5.2 Contract Staffing Requirements	Yes/No/ Future	
78.	<p>Does the Offeror agree to dedicate key staff to the Provider Enrollment Services function as outlined in this RFP including the following requirements:</p> <ul style="list-style-type: none"> • Locate key staff at the Contractor's Richmond, Virginia facility; and • Obtain advance approval from DMAS for all key staff appointments, including replacement of key staff, as necessary? 		
79.	<p>Does the Offeror agree to propose staff for three major areas: Provider Enrollment Specialists, Customer Service Representatives, and Program/Production Support Specialists?</p>		
80.	<p>Does the Offeror understand that DMAS reserves the right to increase or decrease the number of staff in any business or technical areas associated with Schedule D in Section 5.4.5.2 of the RFP throughout the life of the contract?</p>		

81.	Does the Offeror agree that staff will be located in the Provider Enrollment Services facility and dedicated solely to this Contract?		
82.	Does the Offeror agree that staff will possess adequate work experience and expertise to perform all provider enrollment contract requirements?		
83.	Does the Offeror agree to develop supplemental written materials—such as letters advising providers of new phone numbers or describing web-based applications—for DMAS providers and stakeholders? DMAS is to approve materials within five (5) business days before distribution. Describe the approach.		
84.	In the event the Offeror is awarded the PES and MMIS contracts, what would the annual reduction of the fixed prices due to the reduction in staff of the Executive Account Manager and Quality Assurance and Training Specialist's being rolled up into the MMIS contract ? (See Sections 4.2.2 and 5.2.1) Describe the approach.		
	5.2.3 Staffing Plans for Takeover and Operations Phases	Yes/No/ Future	
85.	Does the Offeror agree that its proposed staffing plan for the Takeover Phase will be sufficient to ensure a smooth transition to the new contract effective July 1, 2010?		
86.	Does the Offeror agree that its proposed staffing plan for both the Takeover Phase and the Operations Phase will be sufficient to meet all requirements of this RFP?		
	5.2.4 Ad hoc Staffing Requests	Yes/No/ Future	
87.	Does the Offeror agree to provide additional staff as needed from time to time and required by DMAS?		
88.	Does the Offeror agree to provide a summary and costs for provision of additional ad hoc personnel, including the types of resources available and its training facilities and tools? Describe the approach.		
	5.2.6 Contract Staffing and Location	Yes/No/ Future	
89.	Does the Offeror agree to house all Provider Enrollment and Maintenance functions at a Provider Enrollment Services office located within 15 miles of DMAS' office located at 600 E. Broad Street, Richmond, Virginia 23219?		
90.	Does the Offeror agree to allow DMAS' on-site monitoring of its activities?		
91.	Does the Offeror agree to maintain Provider Enrollment Services normal business hours for all PES functions? Describe the approach.		
92.	Does the Offeror agree to allow the DMAS Contract Monitor, in the course of this monitoring, access to the Contractor's facility, office equipment, staff and telephone system and to the provider files, both manual and electronic? Describe the		

	approach.		
93.	Does the Offeror agree to furnish the DMAS Contract Monitor, at its expense, a parking space, an enclosed office with door, and a cubicle?		
94.	Does the Offeror agree to furnish each office and cubicle with a desk, table and chairs; a private telephone with speakerphone; and a personal computer having: <ul style="list-style-type: none">• Internet access with secure electronic mail,• MS Office and any software and connectivity needed to use PES applications; and• an available printer?		
95.	Does the Offeror agree that the office space and furnishings will be equivalent to those provided for PES staff?		
96.	Does the Offeror agree that its offices shall have access to a conference and training room space for no fewer than 10 people?		

APPENDIX F.II – PROVIDER ENROLLMENT SERVICE LEVEL AGREEMENTS

5.1 Provider Enrollment Service Level Requirements

The following minimum Service Levels are required as set forth in the Service Level Methodology. The Contractor must consistently meet or exceed the following Service Levels. The Service Level methodology and the identification of Service Levels associated with Performance Credits are detailed in Service Level Methodology. **All times referenced are in Eastern Standard Time.**

Initial Allocation Percentage

The Service Level Methodology utilizes allocation percentages (0-100%) for calculation of performance credits and earn-backs. Table F-1 identifies the initial allocation percentages effective on July 1, 2010 and is ordered by allocation percentage.

Table F-1. Initial Allocation Percentage Table

Table #	ID#	Item	Allocation %
5.1.1 Business Operations and 5.1.2 Application Support Service Levels			
F-3	1	Process provider enrollment applications	20%
F-3	2	Renewal and termination of providers	15%
F-3	3	Data entry of information into the MMIS provider database	15%
F-3	4	Maintenance of provider records base on change requests	10%
F-2	1	Web-based enrollment application	10%
F-3	5	Image and profile incoming provider documents	10%
F-3	6	Call center performance	5%
F-3	7	Process returned provider mail	5%
F-3	8	Maintain a dedicated facsimile server	5%
F-3	9	Respond and resolve complaints	5%
F-3	10	Key personnel	0%
F-3	11	Management reports	0%
F-3	12	Process provider inquiries and requests for duplicate 1099	0%
F-3	13	Resolve annual 1099 discrepancies	0%
F-3	14	Report provider satisfaction survey results	0%
F-3	15	Maintain provider enrollment procedures manual.	0%
F-3	16	Maintain provider enrollment service facility and call center	0%
F-3	17	Call center performance	0%
		Subtotal	100.00%

Table F-2. PES General Availability Service Levels

DEFINITION	<p>PES General Availability is defined as the applications and technical infrastructure availability to support mission critical business processing and functions.</p> <p>In the event that a Root Cause Analysis shows that a failure was caused by the FAS Contractor's technical infrastructure, the PES Contractor is not responsible.</p>
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MMIS General Availability Service Level Requirements				
ID	System Area	Service Measure	Performance Target	Minimum Performance %
1	Web-based enrollment application	Aggregate Availability	Operational Sun-Sat 0000-2400 excluding 1 hour a day for maintenance	98%
		Formula	Availability (%) = 100% - Unavailability (%) Where Unavailability is defined as: $(\sum \text{Outage Duration} \times 100\%) \div (\text{Schedule Time})$ Outage is defined as: The PES applications and technical infrastructure not available to users during published availability hours.	
		Measurement Interval	Measure Daily, Report Monthly.	
		Measurement Tool	HP OpenView and RMF/MICS/Sightline Reports and/or equivalent tools.	

Table F-3. PES Operational Functions Service Levels

DEFINITION	<p>Operational tasks are defined as the Contractor's responsibilities in order to support the functions required to enroll current and prospective providers, provides customer service, maintains provider enrollment files, electronically stores and profiles all provider enrollment paper documents received, and provides management reports to DMAS.</p> <p>In the event that a Root Cause Analysis shows that a failure was caused by the FAS Contractor's technical infrastructure, the PES Contractor is not responsible.</p>
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PES Operational Service Level Requirements				
ID	Operational Task	Service Measure	Performance Target	Minimum Performance %
1	Process provider enrollment applications	Response	≤ 10 business days from receipt	98%
2	Renewal and termination of providers	Response	≤ 10 business days from receipt	98%
3	Data entry of provider information into the MMIS provider database	Accuracy / Response	100% accuracy of all provider information entered to MMIS database. Provider Rates entered ≤ 2 business days.	98%
4	Maintenance of provider records based on change request	Response	≤ 5 business days from receipt	98%
5	Image and profile incoming provider documents	Response	≤ 2 business days from receipt	98%
6	Call center performance	Response	99% of calls answered by a live voice ≤ 90 seconds	90%
7	Process returned provider mail	Response	≤ 5 business days from receipt	90%
8	Maintain a dedicated facsimile server	Availability	Sun-Sat, 0000-2400	98%
9	Respond and resolve complaints	Response	≤ 5 business days from receipt	98%
10	Key personnel	Availability	Mon-Fri 0800-1700 excluding state holidays and DMAS pre-approved exceptions.	95%
11	Management reports	Response	Weekly	98%
12	Process provider inquiries and requests for duplicate 1099	Response	≤ 10 business days from receipt	95%
13	Resolve annual 1099 discrepancies	Response	≤ 30 days notification of discrepancy from DMAS	95%
14	Report provider satisfaction survey results	Delivered	Twice annually	99%
15	Maintain provider enrollment procedures manual.	Response	Update ≤ 5 business days	95%

PES Operational Service Level Requirements				
ID	Operational Task	Service Measure	Performance Target	Minimum Performance %
16	Maintain provider enrollment service facility and call center	Availability	Mon-Fri 0800-1700 to include a fully staffed call center excluding state holidays and DMAS pre-approved exceptions.	100%
17	Call center performance	Elapsed Time	Maintain a call abandonment rate of < 5%.	90%
		Formula	Number of requests completed within Performance Target /Total of all requests occurring during Measurement Interval.	
		Measurement Interval	Measure Weekly, Report Monthly.	
		Measurement Tool	Incident management Reports & direct measurement and/or equivalent tools/processes.	

APPENDIX F.III PROVIDER ENROLLMENT SERVICES STATISTICS

Activity	Amount per year
New provider applications processed	15,600
Documents imaged, profiled, and added to electronic provider folder	104,000
Outgoing notices processed	28,300
Providers renewed	2,600
Providers terminated	2,100
Change requests processed	8,000
Enter provider rates	1,000
EFT request processed	2,340
MEDALLION PCP enrollment requests processed	500
Process Form 1099 discrepancies	400
Mail received*	14,400
Number of incoming calls	36,400
Number of pages received via facsimile*	72,000
Number of updates to Provider Enrollment Procedure Manual(s)	4

* These numbers do not reflect the introduction of a web-based Provider Enrollment and Maintenance Application.

Provider Enrollment Services Contract

between

The Department of Medical Assistance Services

and

Contractor

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PROVIDER ENROLLEMENT SERVICES CONTRACT

This PROVIDER ENROLLMENT SERVICES CONTRACT ("Contract") is entered into by and between the Department of Medical Assistance Services (DMAS) (Agency), an agency of the Commonwealth of Virginia, and _____ ("Contractor"), a corporation headquartered at [address] to be effective as of _____, 20__ ("Effective Date").

1. PURPOSE AND SCOPE

The purpose of this Contract is to require support services to be performed by the Contractor known as:

- PROVIDER ENROLLMENT SERVICES (PES)

This Contract sets forth the terms and conditions under which a Contractor shall provide these services to DMAS.

2. DEFINITIONS**A. Agent**

Includes any third party independent agent representing an entity, either the Contractor or the Agency.

B. Contract

The term Contract refers to the Entire Contract as stated in section **20.T Entire Contract** clause.

C. Contractor

Includes the Contractor and any of its Affiliates (i.e. an entity that controls, is controlled by, or is under common control with Contractor).

D. Centers for Medicare and Medicaid Services

CMS is the federal agency responsible for administering the Medicare, Medicaid, SCHIP (State Children's Health Insurance), HIPAA (Health Insurance Portability and Accountability Act), CLIA (Clinical Laboratory Improvement Amendments), and several other health-related programs. Additional information regarding CMS and its programs is available at <http://www.cms.hhs.gov/>.

E. Computer Virus

Any malicious code, program, or other internal component (e.g., computer virus, computer worm, computer time bomb, or similar component), which could damage, destroy, alter or disrupt any computer program, firmware, or hardware or which could, in any manner, reveal, damage, destroy, alter or disrupt any data or other information accessed through or processed by such software in any manner.

F. Agency's Confidential Information

Any confidential or proprietary information of the Agency that is disclosed in any manner, including oral or written, graphic, machine readable or other tangible form, to Supplier in connection with or as a result of discussions related to this Contract, and which at the time of disclosure either (i) is marked as being "Confidential" or "Proprietary", (ii) is otherwise reasonably identifiable as the confidential or proprietary information, or (iii) under the circumstances of disclosure should reasonably be considered as confidential or proprietary information.

G. Deliverable

The tangible embodiment of products, services, processes, procedures, or plans that are created during the Takeover and Operations Phases of the Contract as defined in the DMAS Request for Proposal (2008-02).

H. Department of Medical Assistance Services

The Department of Medical Assistance Services (DMAS) is the Medicaid "single state agency" in Virginia tasked with the administration of the Title XIX Program and other state and locally funded health financing programs.

I. Party

Contractor or Agency.

J. Requirements

The functional, performance, operational, compatibility, acceptance testing criteria and other parameters and characteristics of the Service(s) and Deliverables as set forth in the Entire Contract and such other parameters, characteristics, or performance standards that may be agreed upon in writing by the Parties. [In case of conflict, see the Entire Contract clause for order of precedence.]

K. Services

Any work performed or Services provided including provision to Agency of any Deliverable, by Contractor under this Contract. Services include the discovery, creation, or development of Work Product, if any.

L. Software

The programs and code provided by Contractor under this Contract as a component(s) of the Solution, and any subsequent modification of such programs and code, excluding Work Product.

M. Software Publisher

The licensor of the Software provided by Contractor under this Contract.

N. Solution

Any work performed or Services provided including any procedures, processes, Software, hardware and the configuration thereof that satisfies the requirements of this Contract.

O. Virginia Information Technologies Agency

Virginia Information Technologies Agency (VITA) is an agency of the Commonwealth of Virginia pursuant to Chapter 20.1 of Title 2.2 (§§2.2-2005 et seq.) of the Code of Virginia.

P. Work Product

Inventions, combinations, machines, methods, formulae, techniques, processes, improvements, software designs, computer programs, strategies, specific computer-related know-how, data and original works of authorship (collectively, the "Work Product") discovered, created, or developed by Contractor, or jointly by Contractor and Agency in the performance of this Contract. Work Product shall not include configuration of software.

3. TERM AND TERMINATION**A. Contract Term**

This Contract is effective and legally binding as of the Effective Date and, unless terminated as provided for in this section, shall continue to be effective and legally binding with the Contract Term defined by a Takeover Phase from Effective Date through June 30, 2010 and an Operations Phase that begins on July 1, 2010 and ends June 30, 2012. DMAS, in its sole discretion, may extend this Contract for a one-time option of a two-year period that would begin on July 1, 2012 and ends June 30, 2014. In addition, DMAS, in its sole discretion, may continue to extend this Contract at that time for up to four (4) additional one-year option periods that would run from July 1 through June 30 for each period. DMAS will issue a modification to this Contract stating the extension period, not less than thirty (30) days prior to the expiration of any current term.

B. Termination for Convenience

DMAS may terminate this Contract, in whole or in part, upon not less than thirty (30) days prior written notice at any time for any reason.

C. Termination for Breach

DMAS shall have the right to terminate this Contract, in whole or in part, for breach of Contractor. Contractor shall be deemed in breach in the event that Contractor fails to meet any material obligation set forth in this Contract.

If DMAS deems the Contractor to be in breach, Agency shall provide Contractor with notice of breach and allow Contractor to cure the breach in a time period determined by DMAS. If Contractor fails to cure the breach as noted, Agency may immediately terminate this Contract, in whole or in part. Any such termination shall be deemed a Termination for Breach.

In addition, if Contractor is found by a court of competent jurisdiction to be in violation of or to have violated 31 USC 1352 or if Contractor becomes a party excluded from Federal Procurement and Non-procurement Programs, DMAS may immediately terminate this Contract, in whole or in part, for breach. DMAS shall provide written notice to Contractor of such termination and Contractor shall provide written notice to DMAS if Contractor is charged with violation of 31 USC 1352 or if federal debarment proceedings are instituted against Contractor.

D. Termination for Non-Appropriation of Funds

All payment obligations under this Contract are subject to the availability of legislative appropriations at the federal, state, or local level, for this purpose. In the event of non-appropriation of funds, irrespective of the source of funds, for the items under this Contract, DMAS may terminate this Contract, in whole or in part, for those goods or services for which funds have not been appropriated or for which funds are not available. Termination by Contractor will not be considered.

E. Transition of Services

In accordance with the RFP2008-02 and the Contract, prior to or upon expiration or termination of this Contract and at the request of DMAS, Contractor shall provide all assistance as DMAS may reasonably require to transition Services to any other Contractor with whom DMAS contracts for provision of services identical or similar to the Services provided by Contractor pursuant to this Contract. This obligation may extend beyond expiration or termination of the Contract for a period not to exceed sixty (60) days. Contractor shall provide such assistance at no charge or fee to DMAS.

F. Termination Because of Financial Instability

If DMAS determines that there are verifiable indicators that the Contractor will become financially unstable to the point of threatening the ability of DMAS to obtain the Services provided for under the Contract, DMAS will require verification of the Contractor's financial situation. If from the information DMAS determines the Contractor will inevitably become financially unstable, DMAS may terminate the Contract before this occurs. If the Contractor ceases to conduct business in the normal course, makes a general assignment for the benefit of creditors, or suffers or permits the appointment of a receiver for its business or assets, DMAS may, at its option, immediately terminate this Contract effective at the close of business on a date specified by DMAS. In the event that DMAS elects to terminate the Contract under this provision, the Contractor shall be notified in writing, by either certified or registered mail, specifying the date of termination. The Contractor shall submit a written waiver of the licensee's rights under the federal bankruptcy laws.

In the event of the filing of a petition in bankruptcy by a subcontractor, the Contractor shall immediately so advise DMAS. The Contractor shall ensure that all tasks that have been delegated to its subcontractor(s) are performed in accordance with the terms of this Contract.

4. DELIVERY AND INSTALLATION (TAKEOVER PHASE)**A. Scheduling**

Contractor shall deliver the Solution, including any component parts, and complete performance of Services according to the Contract.

Contractor shall make available all appropriate and/or related Documentation at the time of delivery of the relevant component of the Solution. Any Solution component delivered without the appropriate and required Documentation shall be considered "shipped short" until the applicable Documentation has been received or it will be considered unacceptable by DMAS.

B. Deployment of Solution**1. Contractor Deployment of Solution**

Contractor is required to deploy the Solution in accordance with the work plan and Test Plan. Deployment shall include the installation of any Software component and, if agreed, any hardware component, of the Solution. Contractor shall conduct all testing in accordance with the Test Plan to determine that the Solution is properly deployed and fully ready for productive use, and shall supply Agency with a copy of the results of the diagnostic evaluation promptly after completion of deployment.

Contractor agrees that failure to deploy the Solution in accordance with the work plan shall constitute a material breach of this Contract resulting in damages to Agency.

2. Documentation of Software Configuration

If the Solution includes configuration of Software by Contractor, Contractor shall provide to Agency documentation containing a description of the configuration. Such documentation shall be sufficiently detailed such that any appropriately trained employee or Agent of Agency may reconstruct the configuration of the Software.

5. ACCEPTANCE (TAKEOVER PHASE)**A. Software and Deliverable Acceptance Criteria**

Software and Deliverables shall be deemed accepted when Agency determines that such Software and Deliverables successfully operate in accordance with the Entire Contract and Agency notifies Offeror in writing of its acceptance. At a minimum, acceptance criteria for Software and Deliverables, and for the Solution as a whole, shall ensure that all of the functionality described in the Requirements set forth in the RFP and required by Agency has been delivered to Agency. Acceptance of any one Deliverable shall not imply Agency's concurrence that the Deliverable will function properly with or within the Solution. Contractor shall be responsible for ensuring that all Deliverables function properly within the Solution. Should a previously Accepted Deliverable require further modification in order to work properly with or within the Solution, Contractor shall be responsible for all costs associated with such modification.

Agency agrees to commence acceptance testing in accordance with the work plan and the DMAS approved Test Plan. Contractor agrees to provide to Agency such assistance and advice as Agency may reasonably require, at no additional cost. Agency shall provide to Contractor written notice of acceptance upon completion of successful acceptance testing.

B. Software and Deliverable Cure Period

Contractor shall correct any non-conformities identified hereunder and shall thereafter re-submit such previously non-conforming Software or Deliverable for re-testing within fifteen (15) days of written notice of non-conformance, or as otherwise agreed between Agency and Contractor. In the event that Contractor fails to deliver Software or a Deliverable which meets the Requirements, Agency may, in its sole discretion: (i) reject the Software or Deliverable in its entirety and recover amounts previously paid hereunder; (ii) issue a "partial acceptance" of the Software or Deliverable with an equitable adjustment in the price to account for such deficiency; or (iii) conditionally accept the applicable Software or Deliverable while reserving its right to revoke acceptance if timely correction is not forthcoming. Failure of the Software or a Deliverable to meet, in all material respects, the specifications and performance standards after the second set of acceptance tests shall constitute a breach by Contractor. In the event of such breach, Agency may, at its sole discretion, terminate its order, in whole or in part, for the Solution to be provided thereunder by Contractor. Contractor shall accept return of any products or Software provided to Agency, and Contractor shall refund any monies paid by Agency pursuant to the order, or portion

thereof terminated, the Solution contemplated under the order being considered as a whole not as a sum of its parts. All costs of de-installation and return of product or Software shall be borne by Contractor. This remedy is in addition to and not in lieu of any other remedies of Agency set forth herein or available at law or in equity.

6. SERVICES

A. Services

All Services shall be performed at the times and location set forth in the Contract

B. Acceptance

Services shall be deemed accepted when DMAS determines that such Services meet the Requirements set forth in the Contract. If applicable, Contractor shall be responsible for ensuring that any individual Deliverable functions properly with any other Deliverable provided pursuant to the Contract. Should a previously Accepted Deliverable require further modification in order to work properly with any other Deliverable, Contractor shall be responsible for all costs associated with such modification.

C. Service Level Methodology

The Service Level Methodology that applies to the Service Level Agreements (SLAs) against which Contractor's performance is measured, is defined in Appendix A.II: Service Level Methodology. In RFP 2008-02 Section 7 Appendix F.II Provider Enrollment Services Service Level Agreements are required by the Provider Enrollment Services Contract.

7. RIGHTS TO WORK PRODUCT

DMAS is a state agency of the Commonwealth of Virginia, and, therefore, any license to pre-existing work shall be held by, and all rights in, title to, and ownership of Work Product shall vest with the Commonwealth.

A. Work Product

DMAS and Contractor each acknowledge that performance of this Contract will result in a Work Product (s). The Parties shall document all Work Product specifications and such specifications shall become part of this Contract. Contractor agrees that it shall promptly and fully disclose to the Commonwealth any and all Work Product generated, conceived, reduced to practice or learned by Contractor or any of its employees, either solely or jointly with others, during the term or performance of this Contract, which in any way relates to the business of the Commonwealth or DMAS. Contractor further agrees that neither Contractor nor any of Contractor's employees, nor any party claiming through Contractor or Contractor's employees, shall, other than in the performance of this Contract, make use of or disclose to others any proprietary information relating to the Work Product. All Services performed hereunder shall include delivery of all Work Product source code, object code, executables, and documentation. Contractor shall at no time deny access to the Work Product, regardless of form, by the Commonwealth.

B. Ownership

Contractor agrees that, whether or not the Services are considered "works made for hire" or an employment to invent, all Work Product discovered, created or developed under this Contract shall be and shall remain the sole and exclusive property of the Commonwealth of Virginia and its assignees. Except as specifically set forth in writing and signed by both DMAS and Contractor, Contractor agrees that the Commonwealth shall have all rights with respect to any Work Product discovered, created or developed under this Contract without regard to the origin of the Work Product. In all instances, the Commonwealth of Virginia owns any software designed, developed, installed, or enhanced with 90 % Federal Financial Participation (FFP). CMS has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use and authorize others to use for federal government purposes, software, modifications to software, and documentation that is designed developed, installed or enhanced with 90 % FFP.

If and to the extent that Contractor may, under applicable law, be entitled to claim any ownership interest in the Work Product, Contractor hereby irrevocably transfers, grants, conveys, assigns

and relinquishes exclusively to the Commonwealth any and all right, title and interest it now has or may hereafter acquire in and to the Work Product under patent, copyright, trade secret and trademark law in perpetuity or for the longest period otherwise permitted by law. If any moral rights are created, Contractor waives such rights in the Work Product. Contractor further agrees as to the Work Product to assist the Commonwealth in every reasonable way to obtain and, from time to time, enforce patents, copyrights, and other rights and protection, and in protecting trade secrets, with respect to such Work Product, and to that end, Contractor and its employees shall execute all documents for use in applying for and obtaining such patents, copyrights, and other rights and protection with respect to such Work Product, as the Commonwealth may reasonably request, together with any assignments thereof to the Commonwealth or entities designated by the Commonwealth.

C. Pre-existing Work

If and to the extent that any pre-existing rights are embodied or reflected in the Solution Deliverables, Contractor hereby grants to the Commonwealth an irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license to (i) use, modify, transmit, execute, reproduce, display, perform, distribute copies of and prepare derivative works based upon such pre-existing rights and any derivative works thereof, and (ii) authorize others to do any or all of the foregoing. It is expressly understood that "perpetual" license rights shall commence upon delivery of the Solution Deliverables and shall exist in perpetuity unless otherwise terminated in accordance with the applicable provisions of the Contract.

D. Return of Materials

Upon termination of this Contract, Contractor shall immediately return to DMAS all copies, in whatever form, of any and all Confidential Information, Work Product and other properties provided by DMAS, which are in Contractor's possession, custody or control.

8. CONTRACTOR PERSONNEL

A. Selection and Management of Contractor Personnel

Contractor shall take such steps as may be necessary to ensure that all Contractor personnel performing Services under this Contract are competent and knowledgeable of the contractual arrangements. Contractor shall be solely responsible for the conduct of its employees, agents, and subcontractors, including all acts and omissions of such employees, agents, and subcontractors, and shall ensure that such employees and subcontractors comply with Agency's site security, information security and personnel conduct rules, as well as applicable federal, state and local laws, including export regulations. DMAS reserves the right to require the immediate removal from its premises of any employee, subcontractor or agent of Contractor whom DMAS believes has failed to comply or whose conduct or behavior is unacceptable or unprofessional or results in a security or safety breach. Where it is possible and legal, DMAS encourages the Contractor to give consideration to hire any resources that have experience supporting DMAS services in the past.

B. Contractor Personnel Supervision

Contractor acknowledges that the Contractor, or any of its agents, contractors, or subcontractors, is and shall be the employer of Contractor personnel, and shall have sole responsibility to supervise, counsel, discipline, review, evaluate, set the pay rates of and terminate the employment of Contractor personnel.

C. Key Staff

The Contract designates certain of Contractor's personnel as Key Staff. Contractor's obligations with respect to Key Staff shall be as described in section 4.2.3 Key Staff Requirements of the RFP. Failure of Contractor to perform in accordance with such obligations may be deemed a breach of this Contract.

Subcontractors

Contractor shall not use subcontractors to perform the Services unless specifically authorized in writing to do so by DMAS. If a part of this Contract is supported in whole or in part with federal

funds, Contractor shall not subcontract any Services to any subcontractor that is a party excluded from Federal Procurement and Non-procurement Programs. In no event shall Contractor subcontract any Services to any subcontractor which is debarred by the Commonwealth of Virginia or which owes back taxes to the Commonwealth and has not made arrangements with the Commonwealth for payment of such back taxes.

9. GENERAL WARRANTY AND REPRESENTATIONS

With respect to the Services provided by Contractor, Contractor represents and warrants the following:

A. Ownership

Contractor has the right to provide the Services or Solutions, including Deliverables, without violating or infringing any law, rule, regulation, copyright, patent, trade secret or other proprietary right of any third party.

B. Services, Solutions, Deliverables and Documentation

Contractor warrants the following with respect to the Services, Solutions, Deliverables and Documentation known throughout this section as Solution:

- i). The Solution is pursuant to the Request for Proposal ("RFP"), and therefore such Solution shall be fit for the particular purposes specified by Agency in the RFP and in this Contract, and Contractor is possessed of superior knowledge with respect to the Solution and is aware that Agency is relying on Contractor's skill and judgment in providing the Solution;
- ii). If the RFP specified the hardware equipment Agency shall use to run the Solution, then Contractor warrants the Solution, and any subsequent Solution component Software release, is compatible with and shall perform well with such hardware equipment;
- iii). No corrections, workarounds or future Software or Solution component Software releases provided by Contractor under the warranty provisions or under maintenance shall degrade the Solution, cause any other warranty to be breached, or require Agency to acquire additional hardware equipment or software.

C. Contractor's Viability

Contractor warrants that it has the financial capacity to perform and continue to perform its obligations under this Contract; that Contractor has no constructive or actual knowledge of an actual or potential legal proceeding being brought against Contractor that could materially adversely affect performance of this Contract; and that entering into this Contract is not prohibited by any contract, or order by any court of competent jurisdiction.

D. Contractor's Past Experience

Contractor warrants that the Solutions have been successfully performed for a non-related third-party without significant problems due to the Solution or Contractor.

E. Performance

- i). The Solution shall be implemented and all Services shall be performed with care, skill and diligence, consistent with or above applicable professional standards currently recognized in its profession, and Contractor shall be responsible for the professional quality, technical accuracy, completeness and coordination of all plans, information, specifications, Deliverables and Services furnished under this Contract;
- ii). The Solution pursuant to the Request for Proposal ("RFP") and any associated Deliverables shall be fit for the particular purposes specified by DMAS in the RFP and in this Contract, and Contractor is possessed of superior knowledge with respect to the Solution and Deliverables and is aware that DMAS is relying on Contractor's skill and judgment in providing the Solution and Deliverables;
- iii). The documentation which Contractor is required to provide under this Contract shall be sufficient in detail and content to allow a user/programmer to understand and fully utilize the Deliverables without reference to any other materials or information.

F. Malicious Code

Contractor has used its best efforts through quality assurance procedures to ensure that there are no Computer Viruses or undocumented features in the Solution at the time of delivery to Agency.

Contractor warrants that the Solution does not contain any embedded device or code (e.g., time bomb) that is intended to obstruct or prevent Agency's use of the Solution. Notwithstanding any rights granted under this Contract or at law, Contractor hereby waives under any and all circumstances any right it may have or may hereafter have to exercise Electronic Self-Help. Contractor agrees that Agency may pursue all remedies provided under law in the event of a breach or threatened breach of this Section, including injunctive or other equitable relief.

G. Limited Warranty Period and Remedy

During the warranty period which is the contractual period, Contractor warrants that the Solution shall meet or exceed the Requirements. Contractor shall correct, at no additional cost to DMAS, all defects identified during the warranty period that result in a failure of the Solution to meet the Requirements. All Requirements are included in the Contract and SLAs, and will be monitored according to the Contract and SLAs. The SLAs do not include defects attributed to the prior contractor.

H. Open Source

Contractor will notify Agency if the Solution contains any Open Source code and identify the specific Open Source License that applies to any embedded code dependent on Open Source code, provided by Contractor under this Contract.

10. TRAINING AND DOCUMENTATION

Any training or documentation necessary for DMAS to have full benefit of the Services shall be deemed included in the scope of the Contract unless expressly excluded.

11. ORDERS AND COMPENSATION

A. Order

Contractor shall not accept any order from DMAS if such order is to be funded, in whole or in part, by federal funds and if, at the time the order is placed, Contractor is not eligible to be the recipient of federal funds as may be noted on any of the Lists of Parties Excluded from Federal Procurement and Non-procurement Programs.

B. Purchase Price and Price Protection

Exhibit A Final Cost Schedules sets forth the fees and the appropriate Commonwealth discounts. The fees established for the period July 1, 2010 through June 30, 2011 will be increased or decreased effective July 1, 2011 and each year of operations thereafter by the increase or decrease of the All Urban Consumers category of the CPI-W section of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available. Any such change in price shall be submitted to DMAS in writing in accordance with the above sixty (60) days prior to July 1 of each year and shall become effective on that date.

Invoice Procedures

For an order with a period of performance not expected to exceed one (1) month, Contractor shall remit each invoice to the "bill-to" address provided with the order promptly after all Deliverables or Services have been accepted and in accordance with the milestone payment schedule, if any, in the order. For a time and materials type change order with a period of performance expected to exceed one (1) month, Contractor shall submit invoices to Agency monthly in arrears, unless otherwise specified in such change order. For other payments Contractor shall invoice in accordance with the milestone payment schedule, if any, in the Contract; if such Contract does not include a milestone payment schedule, Contractor shall invoice after all Deliverables or Services have been accepted by Agency. No invoice shall include any costs other than those identified in the executed Contract, which costs shall be in accordance with Exhibit A. Without limiting the foregoing, all shipping costs are the Contractor's responsibility except to the extent such charges are identified in Exhibit A, or as noted in the Contract. Any cost reimbursable work performed or expenses incurred by Contractor prior to the effective date of the order shall not be billed to or reimbursed by Agency. Invoices issued by the Contractor shall identify at a minimum:

- i). Contract Date, Contract Number, Order Number, and Federal Employer Identification Number (FEIN);
- ii). Deliverable or Service Type, or Project Milestone, and Description;
- iii). Quantity, charge and extended pricing for each Deliverable and/or Service item or milestone; or for a time and materials Services, the name(s) of the assigned employee(s), the hourly rate(s), and the number of hours worked.

Any terms included on Contractor's invoice shall have no force or effect and will in no way bind Agency.

C. Purchase Payment Terms

Contractor is responsible for the accuracy of its billing information. Contractor agrees not to issue invoices hereunder until Services have been performed or milestones have met acceptance criteria. Charges for Services accepted more than ninety (90) days prior to receipt of a valid invoice may not be paid, except in accordance with a milestone payment schedule. Should Contractor repeatedly over bill DMAS, DMAS may assess a one percent (1%) charge for the amount over billed for each month that such over billing continues.

If there are any disputed items, DMAS shall pay all undisputed charges and promptly notify Contractor in writing of any disputed amount. Contractor shall thereupon review its records, and, if it does not concur with DMAS, provide DMAS with documentation to support the charge. If such charges remain in dispute, such dispute shall be resolved in accordance with the Dispute Resolution section of this Contract. In the absence of the Contractor's written evidence identifying the merit of the disputed amounts, DMAS may not pay the disputed amounts and may consider the matter concerning the specific identified amounts closed. All payment terms are net 30 days after acceptance.

12. REPORTING

Small Business Subcontracting and Evidence of Compliance - Each prime Contractor who wins an award in which provision of a small business subcontracting plan is a condition of the award, shall deliver to DMAS on a quarterly basis, evidence of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor breach) with the small business subcontracting plan. When such business has been subcontracted to these firms and upon completion of the Contract, the Contractor agrees to furnish the DMAS SBE Champion at a minimum the following information: name of firm, phone number, total dollar amount subcontracted, category type (small, women-owned, or minority-owned), and type of product or service provided. Payment(s) may be withheld until compliance with the plan is received and confirmed by the agency or institution. DMAS reserves the right to pursue other appropriate remedies to include, but not be limited to, termination for breach.

13. COMPETITIVE PRICING

Contractor warrants and agrees that each of the charges, economic or product terms or warranties granted pursuant to this Contract are comparable to or better than the equivalent charge, economic or product term or warranty being offered to any commercial or government customer of Contractor. If Contractor enters into any arrangements with another customer of Contractor to provide Services under more favorable prices, as the prices may be indicated on Contractor's current U.S. and International price list or comparable document, then this Contract shall be deemed amended as of the date of such other arrangements to incorporate those more favorable prices, and Contractor shall immediately notify DMAS of such change.

14. CONFIDENTIALITY

A. Treatment and Protection of Agency Confidential Information

Supplier shall (i) hold in strict confidence all Agency Confidential Information, (ii) use the Agency Confidential Information solely to perform or to exercise its rights under this Contract, and (iii) not transfer, display, convey or otherwise disclose or make available all or any part of such Agency

Confidential Information to any third-party. Supplier shall take the same measures to protect against the disclosure or use of the Agency Confidential Information as it takes to protect its own proprietary or confidential information (but in no event shall such measures be less than reasonable care).

B. Exclusions from Agency Confidential Information

The term "Agency Confidential Information" shall not include information that is:

- i). in the public domain through no fault of Supplier or of any other person or entity that is similarly contractually or otherwise obligated;
- ii). obtained independently from a third-party without an obligation of confidentiality to the Agency and without breach of this Contract;
- iii). developed independently by Supplier without reference to the Agency Confidential Information; or
- iv). required to be disclosed pursuant to a court order.

C. Return or Destruction of Agency Confidential Information

Upon the termination or expiration of this Contract or upon the earlier request of the disclosing Agency, Supplier shall (i) at its own expense, (a) promptly return to the disclosing Agency all tangible Confidential Information (and all copies thereof except the record required by law) of the disclosing Agency, or (b) upon written request from the disclosing Agency, destroy Confidential Information (whether tangible or intangible) and provide the disclosing Agency with written certification of such destruction, and (ii) cease all further use of the Agency's Confidential Information, whether in tangible or intangible form.

D. Supplier Confidential Information

Supplier acknowledges that the Commonwealth is subject to the Virginia Freedom of Information Act, § 2.2-3700 et seq.

The Commonwealth agrees that it shall not, and shall require its employees not to, knowingly divulge any data, material or information provided by or on behalf of Supplier under this Contract where the data, material or information is exempted from disclosure by the Virginia Freedom of Information Act, provided that Supplier invokes protection pursuant to the provisions of Virginia Code § 2.2-4342(F). If Supplier believes that information submitted to the Commonwealth pursuant to this Contract is excluded from the provisions of the Virginia Freedom of Information Act, Supplier shall submit a writing **prior to or at the time of submission** of such information which (i) invokes the protection of the applicable exemption set forth in the Code of Virginia; (ii) identifies the specific data or other materials to be protected, and (iii) states the reasons why protection is necessary. Any proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information.

15. INDEMNIFICATION AND LIABILITY

A. Indemnification

Contractor agrees to indemnify, defend and hold harmless the Commonwealth, DMAS, their officers, directors, agents and employees (collectively, "Commonwealth's Indemnified Parties") from and against any and all third party claims, demands, proceedings, suits and actions, including any related liabilities, obligations, losses, damages, assessments, fines, penalties (whether criminal or civil), judgments, settlements, expenses (including attorneys' and accountants' fees and disbursements) and costs (each, a "Claim" and collectively, "Claims"), incurred by, borne by or asserted against any of Commonwealth's Indemnified Parties to the extent such Claims in any way relate to, arise out of or result from: (i) any intentional or willful misconduct or negligence of any employee, agent, or subcontractor of Contractor, (ii) any act or omission of any employee, agent, or subcontractor of Contractor, (iii) breach of any representation, warranty or covenant of Contractor contained herein, (iv) any defect in the

Services or Deliverables provided by Contractor, or (v) any actual or alleged infringement or misappropriation of any third party's intellectual property rights by any of the Services or Deliverables. Selection and approval of counsel and approval of any settlement shall be accomplished in accordance with all applicable laws, rules and regulations. For state agencies the applicable laws include §§ 2.2-510 and 2.2-514 of the Code of Virginia. In all cases the selection and approval of counsel and approval of any settlement shall be satisfactory to DMAS.

In the event that a Claim is commenced against any of Commonwealth's Indemnified Parties alleging that use of any Deliverable or that the provision of Services under this Contract infringes any third party's intellectual property rights and Contractor is of the opinion that the allegations in such Claim in whole or in part are not covered by this indemnification provision, Contractor shall immediately notify DMAS in writing, via certified mail, specifying to what extent Contractor believes it is obligated to defend and indemnify under the terms and conditions of this Contract. Contractor shall in such event protect the interests of the Commonwealth's Indemnified Parties and secure a continuance to permit DMAS to appear and defend its interests in cooperation with Contractor as is appropriate, including any jurisdictional defenses DMAS may have.

In the event of a Claim pursuant to any actual or alleged infringement or misappropriation of any third party's intellectual property rights by any of the Services or Deliverables, and in addition to all other obligations of Contractor in this Section, Contractor shall at its expense, either (a) procure for DMAS the right to continue use of such infringing Services or Deliverables, or any component thereof; or (b) replace or modify such infringing Services or Deliverables, or any component thereof, with non-infringing products or services satisfactory to DMAS. And in addition, Contractor shall provide DMAS with comparable temporary replacement deliverables and services, or reimburse DMAS for the reasonable costs incurred by DMAS in obtaining alternative products and services in the event DMAS cannot use the affected Deliverable or benefit from the affected Services. If Contractor cannot accomplish any of the foregoing within a reasonable time and at commercially reasonable rates, then Contractor shall accept the return of the infringing component of the Services or Deliverable, along with any other components of any products rendered unusable by DMAS as a result of the infringing component, and refund the price paid to Contractor for such components.

16. SECURITY COMPLIANCE

Contractor agrees to comply with all provisions of the then-current Commonwealth of Virginia security procedures, published by the Virginia Information Technologies Agency (VITA) and which may be found at (<http://www.vita.virginia.gov/library/> See Governance Publications) or a successor URL(s), as are pertinent to Contractor's operation. Contractor further agrees to comply with all provisions of DMAS' then-current security procedures as are pertinent to Contractor's operation and which have been supplied to Contractor by DMAS. Contractor shall also comply with all applicable federal, state and local laws and regulations. For all Contractor locations, security procedures may include but not be limited to records verification, photographing, and fingerprinting of Contractor's employees or agents. Contractor may, at any time, be required to execute and complete, for each individual Contractor employee or agent, additional forms which may include non-disclosure agreements to be signed by Contractor's employees or agents acknowledging that all DMAS information with which such employees and agents come into contact while at DMAS site is confidential and proprietary. Any unauthorized release of proprietary information by the Contractor or an employee or agent of Contractor shall constitute a breach of this Contract. Contractor must perform background checks on all Contractor employees or agents at the Contractor's expense.

Contractor shall indemnify, defend, and hold the Commonwealth, Agency, their officers, directors, employees and agents harmless from and against any and all fines, penalties (whether criminal or civil), judgments, damages and assessments, including reasonable expenses suffered by, accrued against, or charged to or recoverable from the Commonwealth, Agency, their officers, directors, agents or employees, on account of the failure of Contractor to perform its obligations pursuant this Section.

17. IMPORT/EXPORT

Any product generated from any data collected, developed, analyzed, or otherwise used or obtained by Contractor pursuant to Contractor's performance of this Contract shall be considered Data Product.

Contractor shall not export or re-export any data collected, developed, analyzed, or otherwise used or obtained by Contractor pursuant to Contractor's performance of this Contract, or any Data Product, to any country, person, entity or end user subject to U.S. export restrictions. Contractor specifically agrees not to export, re-export, or download such data or Data Product: (a) to any country to which the U.S. has embargoed or restricted the export of goods or services, which currently include, but are not necessarily limited to Cuba, Iran, Iraq, Libya, North Korea, Sudan, Syria, Federal Republic of Yugoslavia, or to any national of any such country; (b) to any end-user who Contractor knows or has reason to know will utilize the data or Data Product or portion thereof in the design, development or production of nuclear, chemical, or biological weapons, or for any purpose which may, directly or indirectly, pose a security threat to the United States or its territories; or (c) to any end-user who has been prohibited from participating in U.S. export transactions by any federal agency of the U.S. government. Contractor is responsible for complying with local laws in Contractor's jurisdiction, as well as all federal and state laws and regulations regarding import and export, which might impact its right to import, export, or use the data or Data Product.

In addition, Contractor agrees that any data deemed "restricted" or "sensitive" by either federal or state authorities, must only be collected, developed, analyzed, or otherwise used or obtained by persons or entities working within the boundaries of the United States.

18. GENERAL PROVISIONS**A. Relationship between DMAS and Contractor**

Contractor has no authority to contract for DMAS or in any way to bind or to commit DMAS to any agreement of any kind, or to assume any liabilities of any nature in the name of or on behalf of DMAS. Under no circumstances shall Contractor, or any of its employees, hold itself out as or be considered an agent or an employee of DMAS, and DMAS shall have no duty to provide or maintain any insurance or other employee benefits on behalf of Contractor or its employees. Contractor represents and warrants that it is an independent contractor for purposes of federal, state and local employment taxes and agrees that DMAS is not responsible to collect or withhold any federal, state or local employment taxes, including, but not limited to, income tax withholding and social security contributions, for Contractor. Any and all taxes, interest or penalties, including, but not limited to, any federal, state or local withholding or employment taxes, imposed, assessed or levied as a result of this Contract shall be paid or withheld by Contractor or, if assessed against and paid by DMAS, shall be reimbursed by Contractor upon demand by DMAS.

B. Incorporated Contractual Provisions

The then-current contractual provisions at the following URL are mandatory contractual provisions, required by law or by DMAS, and that are hereby incorporated by reference: <http://www.vita.virginia.gov/uploadedFiles/SCM/StatutorilyMandatedTsandCs.pdf>

The contractual claims provision §2.2-4363 of the Code of Virginia and the required eVA provisions at <http://www.vita.virginia.gov/uploadedFiles/SCM/eVATsandCs.pdf> are also incorporated by reference.

The then-current (at time of contract ratification) terms and conditions in documents posted to the aforereferenced URLs are subject to change pursuant to action by the legislature of the Commonwealth of Virginia, change in DMAS policy, or the adoption of revised eVA business requirements. If a change is made to the terms and conditions, a new effective date will be noted in the document title.

C. Compliance with the Federal Lobbying Act

Contractor's signed certification of compliance with 31 USC 1352 (entitled "Limitation on use of appropriated funds to influence certain federal contracting and financial transactions") or by the regulations issued from time to time thereunder (together, the "Lobbying Act") is incorporated as Exhibit B hereto.

D. Governing Law

This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia without regard to that body of law controlling choice of law. Any and all litigation shall be brought in the circuit courts of the Commonwealth of Virginia. The English language version of this Contract prevails when interpreting this Contract. The United Nations Convention on Contracts for the International Sale of Goods and all other laws and international treaties or conventions relating to the sale of goods are expressly disclaimed. UCITA shall apply to this Contract only to the extent required by §59.1-501.15 of the Code of Virginia.

E. Dispute Resolution

In accordance with §2.2-4363 of the Code of Virginia, Contractual claims, whether for money or other relief, shall be submitted in writing to the public body from whom the relief is sought no later than sixty (60) days after final payment; however, written notice of the Contractor's intention to file such claim must be given to such public body at the time of the occurrence or beginning of the work upon which the claim is based. Pendency of claims shall not delay payment of amounts agreed due in the final payment. The relevant public body shall render a final decision in writing within thirty (30) days after its receipt of the Contractor's written claim.

The Contractor may not invoke any available administrative procedure under §2.2-4365 of the Code of Virginia nor institute legal action prior to receipt of the decision of the relevant public body on the claim, unless that public body fails to render its decision within thirty (30) days. The decision of the relevant public body shall be final and conclusive unless the Contractor, within six (6) months of the date of the final decision on the claim, invokes appropriate action under §2.2-4364, Code of Virginia or the administrative procedure authorized by §2.2-4365, Code of Virginia.

Upon request from the public body from whom the relief is sought, Contractor agrees to submit any and all contractual disputes arising from this Contract to such public body's alternative dispute resolution (ADR) procedures, if any. Contractor may invoke such public body's ADR procedures at any time and concurrently with any other statutory remedies prescribed by the Code of Virginia.

In the event of any breach by a public body, Contractor's remedies shall be limited to claims for damages and Prompt Payment Act interest and, if available and warranted, equitable relief, all such claims to be processed pursuant to this Section. In no event shall Contractor's remedies include the right to terminate any license or support services hereunder.

F. Advertising and Use of Proprietary Marks

Contractor shall not use DMAS' name or refer to DMAS, directly or indirectly, in any press release or formal advertisement without receiving prior written consent of DMAS. In no event may Contractor use a proprietary mark of DMAS without receiving the prior written consent of DMAS.

G. Notices

Any notice required or permitted to be given under this Contract shall be in writing and shall be deemed to have been sufficiently given if delivered in person, or if deposited in the US mails, postage prepaid, for mailing by registered, certified mail, or overnight courier service addressed to the addresses shown on the signature page. DMAS or Contractor may change its address for notice purposes by giving the other Party notice of such change in accordance with this Section.

H. No Waiver

Any failure to enforce any terms of this Contract shall not constitute a waiver.

I. Assignment

This Contract shall be binding upon and shall inure to the benefit of the permitted successors and assigns of DMAS and Contractor. Contractor may not assign, subcontract, delegate or otherwise convey this Contract, or any of its rights and obligations hereunder, to any entity without the prior written consent of DMAS, and any such attempted assignment or subcontracting without consent shall be void. DMAS may assign this Contract to any entity, so long as the assignee agrees in writing to be bound by the all the terms and conditions of this Contract.

If any law limits the right of DMAS or Contractor to prohibit assignment or nonconsensual assignments, the effective date of the assignment shall be thirty (30) days after the Contractor gives DMAS prompt written notice of the assignment, signed by authorized representatives of both the Contractor and the assignee. Any payments made prior to receipt of such notification shall not be covered by this assignment.

J. Captions

The captions are for convenience and in no way define, limit or enlarge the scope of this Contract or any of its Sections.

K. Severability

Invalidity of any term of this Contract, in whole or in part, shall not affect the validity of any other term. DMAS and Contractor further agree that in the event such provision is an essential part of this Contract, they shall immediately begin negotiations for a suitable replacement provision.

L. Survival

The provisions of this Contract regarding License, Rights To Work Products, Warranty, Confidentiality, Liability and Indemnification, and the General Provisions shall survive the expiration or termination of this Contract.

M. Force Majeure

No Party shall be responsible for failure to meet its obligations under this Contract if the failure arises from causes beyond the control and without the fault or negligence of the non-performing Party. If any performance date under this Contract is postponed or extended pursuant to this section for longer than thirty (30) calendar days, DMAS, by written notice given during the postponement or extension, may terminate Contractor's right to render further performance after the effective date of termination without liability for that termination.

N. Remedies

The remedies set forth in this Contract are intended to be cumulative. In addition to any specific remedy, DMAS reserves any and all other remedies that may be available at law or in equity.

O. Access To and Retention of Records

In addition to the requirements outlined below, the Contractor must comply, and must require compliance by its subcontractors with the security and confidentiality of records standards.

1) Access to Records - DMAS, the Centers for Medicare and Medicaid Services, state and federal auditors, or any of their duly authorized representatives shall have access to any books, fee schedules, documents, papers, and records of the Contractor and any of its subcontractors. Access to records includes any records that are stored offsite.

DMAS, the Centers for Medicare and Medicaid Services, state and federal auditors, or any of their duly authorized representatives, shall be allowed to inspect, copy, and audit any of the above documents, including, medical and/or financial records of the Contractor and its subcontractors.

2) Retention of Records - The Contractor shall retain all records and reports relating to this Contract for a period of six (6) years after final payment is made under this Contract or in the event that this Contract is renewed six (6) years after the final payment. When an audit, litigation,

or other action involving or requiring access to records is initiated prior to the end of said period, however, records shall be maintained for a period of six (6) years following resolution of such action or longer if such action is still ongoing. Copies on microfilm or other appropriate media of the documents contemplated herein may be substituted for the originals provided that the microfilming or other duplicating procedures are reliable and are supported by an effective retrieval system which meets legal requirements to support litigation, and to be admissible into evidence in any court of law.

The Contractor shall not have the right to audit, or require to have audited, DMAS.

P. Offers of Employment

During the first twelve (12) months of the Contract, should Contractor hire an employee of Agency who has substantially worked on any project covered by this Contract without prior written consent, the Contractor shall be billed for fifty percent (50%) of the employee's annual salary in effect at the time of termination.

Q. HIPAA Compliance

The Contractor shall comply, and shall ensure that any and all subcontractors comply, with all state and federal laws and regulations with regards to handling, processing, or using Health Care Data. This includes but is not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) regulations as it pertains to this agreement, and the Contractor shall keep abreast of the regulations. Since this is a federal law and the regulations apply to all health care information, the Contractor shall comply with the HIPAA regulations at no additional cost to DMAS. The Contractor shall also be required to enter into a DMAS-supplied HIPAA Business Associate Agreement with DMAS to comply with the regulations protecting Health Care Data. A template of this Agreement is available on the DMAS Internet Site. (<http://www.dmas.virginia.gov/hpa-home.htm#Agreements>).

R. Access to Premises

The Contractor shall allow duly authorized agents or representatives of the state or federal government, during normal business hours, access to Contractor's and subcontractors' premises, to inspect, audit, monitor or otherwise evaluate the performance of the Contractor's and subcontractor's contractual activities and shall forthwith produce all records requested as part of such review or audit. In the event right of access is requested under this section, the Contractor and subcontractor shall, upon request, provide and make available staff to assist in the audit or inspection effort, and provide adequate space on the premises to reasonably accommodate the state or federal personnel conducting the audit or inspection effort. All inspections or audits shall be conducted in a manner as will not unduly interfere with the performance of Contractor or subcontractor's activities. The Contractor shall be given thirty (30) calendar days to respond to any preliminary findings of an audit before the Department shall finalize its findings. All information so obtained will be accorded confidential treatment as provided under applicable law.

DMAS, the Office of the Attorney General of the Commonwealth of Virginia, the federal Department of Health and Human Services, and/or their duly authorized representatives shall be allowed access to evaluate through inspection or other means, the quality, appropriateness, and timeliness of Services performed under this Contract.

S. Performance Bond

The Contractor shall deliver to the DMAS Contracts Management office an executed performance bond, in a form acceptable to DMAS with DMAS as obligee. The surety shall be a surety company or companies approved by the State Corporation Commission to transact business in the Commonwealth of Virginia. The successful Contractor shall obtain the required performance bond in form and substance acceptable to the Commonwealth and provide it to the Commonwealth no later than the Contract Effective date detailed in the Contract. The successful Contractor must meet this performance bond requirement by providing the Commonwealth (as required) a performance bond covering the entire Contract period including all options to extend the Contract. The performance bond includes the Takeover period of the Contract (ending June

30th 2010) for the amount equal to 25% of the Implementation fee (Takeover price), and, thereafter, a new annual (or re-issued) performance bond equal to 25% of the annual estimated contract amount covering each subsequent annual period of the Operations Phase of the Contract. The Contractor must provide annual (or re-issued) performance bonds to the Commonwealth no later than June 30th preceding the annual covered period beginning on July 1st of each year of the Operations Phase. Failure to provide to the Commonwealth the performance bond equal to 25% of the annual estimated contract amount as required prior to the Contract Effective date and, as applicable in the case of an annual performance bond, no later than June 30th preceding each annual covered period beginning on July 1st each year of the Operations Phase, shall result in DMAS' option to terminate the Contract. The successful Contractor shall make all necessary arrangements for the performance bond prior to the Contract Effective date and prior to any subsequent performance bond deadlines in the case of an annual performance bond. The Commonwealth will not assist the Contractor securing the services of any fidelity or guaranty underwriter. **Failure to adhere to the requirements of this Contract shall result in DMAS' option to terminate the Contract as a material breach of the Contract.**

T. Entire Contract

The following documents, including all subparts thereof, are attached to this Contract and are made a part of this Contract for all purposes:

- i). This signed form and all named Exhibits and Attachments;
- ii). DMAS Request for Proposal (2008-02), dated August 13, 2008 as amended;
- iii). DMAS fully executed Business Associate Agreement (BAA) dated _____;
- iv). The Contractor's Proposal dated _____ and negotiated modifications to the Proposal detailed in the letter from _____ dated _____, all of which are incorporated herein.

This Contract and its Exhibits constitute the entire agreement between DMAS and Contractor and supersede any and all previous representations, understandings, discussions or agreements between DMAS and Contractor as to the subject matter hereof. The provisions of the Virginia Department of General Services, Division of Purchases and Supply Vendor's Manual shall not apply to this Contract. This Contract may only be amended by an instrument in writing signed by DMAS and Contractor. DMAS and Contractor each acknowledge that it has had the opportunity to review this Contract and to obtain appropriate legal review if it so chose.

Executed as of the last date set forth below by the undersigned authorized representatives of DMAS and Supplier.

Contractor

DMAS

By: _____

By: _____

(Signature)

(Signature)

Name: _____

Name: _____

(Print)

(Print)

Title: _____

Title: _____

Date: _____

Date: _____

Address for Notice:

Address for Notice:

